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Post-Majority Support In Florida: An Idea Whose Time Has Come?

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Abstract

Despite these words of the state Supreme Court, Florida courts have not expressly held that a divorced parent, with the financial ability to do so, is required to provide his child with a college education.

KEYWORDS: majority, florida, idea

Post-Majority Support In Florida: An Idea Whose Time Has Come?

In this age of sophisticated technology and economic complexity with the necessity of development of special skills to qualify for pursuit of a trade, profession or to obtain employment, a person over 18 and less than 21 may indeed be dependent on the help of others to obtain what education and training is needed to be competitive in the economic system in which he must make his way.¹

Despite these words of the state Supreme Court, Florida courts have not expressly held that a divorced parent, with the financial ability to do so, is required to provide his child with a college education.² Generally, the obligation of a parent to support a child ceases when the child reaches majority.³ The issue of support to provide college funds became pertinent in Florida in 1973 when the age of majority was lowered from twenty-one to eighteen.⁴ Prior to that time most children were close to completion of a college education when they reached majority and the question of support during college was seldom raised.⁵

Although Florida does not yet recognize a duty of support beyond the age of majority, recent decisions indicate that the courts are not totally opposed to the idea of requiring a divorced parent to provide

1. *Finn v. Finn*, 312 So. 2d 726, 731 (Fla. 1975).

2. In *Finn*, the court recognized the importance of education in dictum. See notes 7-9 & 22-24 *infra* and accompanying text.

3. *Perla v. Perla*, 58 So. 2d 689, 690 (Fla. 1952).

4. FLA. STAT. § 1.01(14) (1979) states: "the word 'minor' includes any person who has not attained the age of 18 years." FLA. STAT. § 743.07(1)(1979) provides:

The disability of nonage is hereby removed for all persons in this state who are 18 years of age or older, and they shall enjoy and suffer the rights, privileges and obligations of all persons 21 years of age or older except as otherwise excluded by the state constitution immediately preceding the effective date of this section.

These sections were created by Ch. 73-21, 1973 Fla. Laws 59, effective July 1, 1973.

5. See generally *Nicolay v. Nicolay*, 387 So. 2d 500 (Fla. 2d Dist. Ct. App. 1980).

funds for a child's college education. This note will examine Florida cases dealing with this issue, and will explore the ramifications of a finding of a duty of post-majority support, including the possibility of an equal protection challenge, by examining decisions of other states whose courts have ordered divorced parents to provide support beyond majority for educational purposes.

I. FLORIDA DECISIONS

A. *Pre-Existing Support Obligations*

Florida Statute § 743.07, which removes the disability of nonage for persons who are eighteen years of age or older, operates prospectively rather than retrospectively.⁶ In *Finn v. Finn*,⁷ the Supreme Court held that a final judgment in a dissolution proceeding rendered prior to July 1, 1973, the effective date of section 743.07, was not affected by the statute. The 1971 judgment, in addition to granting dissolution of the marriage of the parties and awarding custody of the adoptive children to the mother, ordered the father to pay weekly child support.⁸ The Court rejected the father's contention that section 743.07, by operation of law, modified the duration of the child support ordered so as to terminate it when the children reached eighteen, and held that the final judgment, rendered when the age of majority was twenty-one, had impliedly set the duration of legal dependency to extend until the children reached twenty-one.⁹

The District Courts of Appeal have adhered to the view that judgments for support entered prior to the effective date of the statute lowering the age of majority, and which provide for support to "majority,"

6. FLA. STAT. § 743.07(3) (1979) provides "[t]his section shall operate prospectively and not retrospectively and shall not affect the rights and obligations existing prior to July 1, 1973."

7. 312 So. 2d 726 (Fla. 1975).

8. The court in a dissolution proceeding has authority to order child support per FLA. STAT. § 61.13(1) (1979) which provides in part that "[i]n a proceeding for dissolution of marriage, the court may at any time order either or both parents owing a duty of support to a child of the marriage to pay such support as from the circumstances of the parties and the nature of the case is equitable."

9. 312 So. 2d at 729. *See also* Daugherty v. Daugherty, 308 So. 2d 24 (Fla. 1975).

“until emancipation,” or “until age twenty-one,” are binding and enforceable. The new age of majority does not affect the duration of support payments ordered by such judgments.¹⁰

B. Agreements to Provide Post-Majority Support

In spite of the general rule that a parent does not owe support to children after they reach majority, specific agreements to support children beyond majority or through college will be enforced.¹¹ A father who has agreed to pay for a child's college education under the terms of a separation agreement will be required to pay for these educational benefits regardless of the statutory age of majority. The court will not remake an agreement.¹² A wife, as custodial parent and a contracting party, has standing to seek enforcement of such an agreement.¹³

C. What is a “Dependent Person?”

Although the age of majority, and consequently the duration of the parental obligation of support, has been lowered to eighteen. Florida Statute § 743.07(2) provides that a court may require support for a *dependent person* beyond the age of eighteen years.¹⁴ Much litigation

10. *Burgdorf v. Burgdorf*, 372 So. 2d 988 (Fla. 2d Dist. Ct. App. 1979). *Hoffman v. Hoffman*, 371 So. 2d 1061 (Fla. 3d Dist. Ct. App. 1979). *Manganiello v. Manganiello*, 359 So. 2d 26 (Fla. 3d Dist. Ct. App. 1978). *Swallick v. Swallick*, 351 So. 2d 1119 (Fla. 4th Dist. Ct. App. 1977). *Drotos v. Drotos*, 311 So. 2d 746 (Fla. 3d Dist. Ct. App. 1975).

11. *Holmes v. Holmes*, 384 So. 2d 1295 (Fla. 2d Dist. Ct. App. 1980). *Martinez v. Martinez*, 383 So. 2d 1153 (Fla. 3d Dist. Ct. App. 1980). *See also Veron, Parental Support of Post-Majority Children in College: Changes and Challenges*, 17 J. Fam. L. 645, 652-54 (1979).

12. *Martinez*, 383 So. 2d at 1155. *See also Mohammed v. Mohammed*, 371 So. 2d 1070 (Fla. 1st Dist. Ct. App. 1979) (trial court's order of support, based on father's offer to pay for his two children's college expenses for four years, affirmed).

13. *Holmes*, 384 So. 2d at 1296. *Accord, Fagan v. Fagan*, 381 So. 2d 278 (Fla. 5th Dist. Ct. App. 1980). Dissolution court is the proper forum to enforce child support payments for an adult child.

14. FLA. STAT. § 743.07(2) (1979) states:

This section shall not prohibit any court of competent jurisdiction from requiring support for a *dependent person* beyond the age of 18 years; and any crippled child as defined in chapter 391 shall receive benefits under the provisions of said chapter until age 21, the provisions of this section to the contrary notwithstanding.

has focused on the meaning of "dependent person" as used in the statute.

It has long been recognized that a parent's support obligation may continue after a child has reached majority when the child is, from physical or mental deficiencies, unable to support himself.¹⁵ Dependency in this sense has not been equated with incompetency. Evidence that a child was able to hold a part-time job under close supervision while attending a junior college, but was unable to be self-sustaining because of his mental condition, has been held sufficient to uphold a finding of dependency and requirement of support.¹⁶ Florida courts are divided, however, as to whether a full-time student without physical or mental disabilities may be a dependent person and therefore entitled to support after reaching the age of eighteen, per §743.07(2).

In *White v. White*,¹⁷ a case decided shortly after the age of majority was lowered to eighteen, the First District Court of Appeal reversed an order of the trial judge which required a father to pay support for his eighteen year old son who in the trial court's opinion was entitled to a college education at the expense of his parents.¹⁸ The appeal court postulated that the term "dependent person" in section 743.07 was intended by the legislature to mean a person over eighteen years of age unable by reason of physical or mental incompetency or inability to be independent,¹⁹ and held that it was not empowered to require the father to support his able-bodied son. In a dissent which was subsequently cited and approved by the state Supreme Court,²⁰ Judge McCord expressed the view that if the legislature intended to limit dependent persons to disabled persons it would have done so, and that the reasonable pursuit of an education is relevant to the question of

ing. (emphasis added).

15. Perla, 58 So. 2d at 690. *Accord*, *Fincham v. Levin*, 155 So. 2d 883 (Fla. 1st Dist. Ct. App. 1963) (father ordered to support unmarried adult daughter who had been an epileptic since birth and was mentally and physically unable to care for or support herself).

16. *Fagan v. Fagan*, 381 So. 2d 278 (Fla. 5th Dist. Ct. App. 1980).

17. 296 So. 2d 619 (Fla. 1st Dist. Ct. App. 1974).

18. *Id.* at 621.

19. *Id.* at 623.

20. *Finn*, 312 So. 2d at 731.

dependency.²¹

The Supreme Court of Florida, in *Finn v. Finn*,²² stated in dictum²³ that the interpretation of "dependent person" as one who is dependent because of physical or mental incompetence or inability is too narrow²⁴ and that one pursuing an education in good faith with a need for help beyond his own reasonable capacity to provide for himself may be a dependent person.²⁵ Nevertheless, the District Courts of Appeal have held that "the mere fact that a person is attending a university or college does not render him or her dependent"²⁶ and they have failed to hold that financial inability to support oneself while pursuing a college education may constitute dependency within the meaning of the statute.

D. No Support Beyond Age Twenty-One

While the supreme court's dicta in *Finn* indicates that a student without physical or mental disabilities may nevertheless be dependent, and therefore entitled to parental support beyond the age of eighteen, it also implies that dependency in this situation ends at age twenty-one.²⁷ Shortly after *Finn* was decided, the Fourth District Court of Appeal reversed that portion of a marriage dissolution judgment which ordered the husband to pay the college tuition of the parties' twenty-three year old son. The court recognized *Finn*'s apparent holding that dependency as a result of the bona fide pursuit of education may exist as to one between eighteen and twenty-one years of age, but did not interpret either section 743.07 or *Finn* "as authorizing a court to require a parent to support a child over twenty-one years of age, whether for educa-

21. 296 So. 2d at 625.

22. 312 So. 2d 726 (Fla. 1975).

23. The holding, enforcing a judgment ordering child support until the parties' children reached age twenty-one, was based on the fact that the judgment was rendered prior to the effective date of § 743.07. See notes 7-9 *supra* and accompanying text.

24. 312 So. 2d at 731.

25. *Id.* at 730.

26. *Dwyer v. Dwyer*, 327 So. 2d 74, 75 (Fla. 1st Dist. Ct. App. 1976). *Accord*, *Genoe v. Genoe*, 373 So. 2d 940 (Fla. 4th Dist. Ct. App. 1979); *French v. French*, 303 So. 2d 668 (Fla. 4th Dist. Ct. App. 1974).

27. See note 1 *supra* and accompanying text.

tional purposes or otherwise, unless the child is dependent as a result of physical or mental deficiencies."²⁸

Other Florida courts are in agreement that orders of support for education beyond the age of twenty-one are not justified.²⁹ In a recent case, the Second District Court of Appeal commented "that while the legislature in lowering the age of majority to eighteen did not intend to eliminate any requirement for parents to pay their children's way through college, there is nothing to indicate that the legislature wished to enlarge parental obligations."³⁰

E. Is There A Duty to Educate Adult Children?

Florida courts have based their refusal to order support to healthy children beyond the age of eighteen on the general rule that the obligation of parental support ends at majority,³¹ and on the holding that attendance at college does not necessarily make a person "dependent," within the meaning of Florida Statute § 743.07.³² In 1978, the Fourth District Court of Appeal went a step further by declaring that a parent does not owe a duty to an adult child to provide a college education.³³ Although recognizing that a full-time college student in active and sincere pursuit of an education may be dependent upon his parents for support, the court reversed a lower court order requiring a father to provide a college education for his adult child upon a finding of no

28. *Briggs v. Briggs*, 312 So. 2d 762, 762 (Fla. 4th Dist. Ct. App. 1975).

29. *Watterson v. Watterson*, 353 So. 2d 1185 (Fla. 1st Dist. Ct. App. 1977); *Winikoff v. Winikoff*, 339 So. 2d 262 (Fla. 3d Dist. Ct. App. 1976).

30. *Nicolay v. Nicolay*, 387 So. 2d 500, 505-06 n.5 (Fla. 2d Dist. Ct. App. 1980). See notes 40-43 *infra* and accompanying text.

31. See, e.g., *Genoe v. Genoe*, 373 So. 2d 940 (Fla. 4th Dist. Ct. App. 1979); *Rollings v. Rollings*, 362 So. 2d 700 (Fla. 2d Dist. Ct. App. 1978); *Krogen v. Krogen*, 320 So. 2d 483 (Fla. 3d Dist. Ct. App. 1975); *Kowalski v. Kowalski*, 315 So. 2d 497 (Fla. 2d Dist. Ct. App. 1975). See also *Cyr v. Cyr*, 354 So. 2d 140 (Fla. 2d Dist. Ct. App. 1978); *Baldi v. Baldi*, 323 So. 2d 592 (Fla. 3d Dist. Ct. App. 1975) (holding the trial court was without authority to order child support beyond age of eighteen years and that question of support as dependent children should be determined by the court, if requested, at the time of the attainment of majority of each child).

32. See *Dwyer v. Dwyer*, 327 So. 2d 74 (Fla. 1st Dist. Ct. App. 1976); *Genoe v. Genoe*, 373 So. 2d 940 (Fla. 4th Dist. Ct. App. 1979); *French v. French*, 303 So. 2d 668 (Fla. 4th Dist. Ct. App. 1974).

33. *Kern v. Kern*, 360 So. 2d 482, 485 (Fla. 4th Dist. Ct. App. 1978).

legally enforceable obligation.³⁴ The court noted that Florida Statutes §§ 61.13³⁵ and 743.07³⁶ must be read together and that before a court may order support for an adult child, "it must find (1) that the parent owes a duty of support, and (2) that the child is dependent upon that parent for such support."³⁷

While parents have a duty to educate minor children,³⁸ no such duty has been recognized as to children beyond the age of majority. Providing a college education for children may be a moral obligation of some parents, but it is not presently recognized as a legal one.³⁹

F. Indirect Provision for Post-Majority Support

The Second District Court of Appeal in a 1980 decision, *Nicolay v. Nicolay*,⁴⁰ gave the first inkling that Florida is willing to recognize a child's needs for higher education by affirming an order of increased alimony to a mother for the sole purpose of allowing her to furnish her daughters with a college education.⁴¹ After reviewing the decisions of all the district courts of appeal regarding post-majority support, as well as the supreme court's decision in *Finn v. Finn*, the court stated its

34. The court also held that even if a duty of support for an adult child does exist, a dissolution proceeding is not the proper forum in which to establish the existence of that obligation. *Id.* at 485. This case should be distinguished from those involving an *agreement* to support an adult child. A dissolution proceeding is the proper forum in which to seek enforcement of an agreement. *See* note 13 *supra* and accompanying text.

35. *See* note 8 *supra* for text of statute.

36. *See* note 14 *supra* for text of relevant portion of statute.

37. 360 So. 2d at 484.

38. FLA. STAT. § 744.361 (1979) provides in part: "(1) It is the duty of the guardian of the person to take care of the person of the ward, to treat him humanely, and, *if he is a minor*, to see that he is properly educated and that he has the opportunity to learn a trade, occupation or possession." (emphasis added).

39. Kern, 360 So. 2d at 485. *French v. French*, 303 So. 2d 668, 669 (Fla. 4th Dist. Ct. App. 1974). *See generally* Washburn, *Post-Majority Support: Oh Dad, Poor Dad*, 44 Temple L.Q. 319, 325-29 (1971).

40. 387 So. 2d 500 (Fla. 2d Dist. Ct. App. 1980).

41. The upward adjustment in alimony was ordered to help Mrs. Nicolay maintain the standard to which she was accustomed while married. The standard, according to the court, "was such that she could rightfully expect to be able to provide her children with a college education, particularly since they were exceptionally bright and hence were outstanding candidates for college." *Id.* at 506.

belief that the legislature, in lowering the age of majority, did not intend to deprive worthy children of the funds needed to attend college.⁴² Since the appeal was based on alimony rather than child support, the court was not required to overrule any prior decisions. However, they stated that if the case had been an appeal from an order raising child support, they would have been "inclined to hold that in a dissolution proceeding a court could find a child under the age of twenty-one dependent by reason of attendance at college and order one or both of his parents to provide support" since "there is no *fixed* rule forbidding an order of increased child support to finance a child's college education up to the age of twenty-one."⁴³

It remains to be seen whether Florida's courts will expand upon the logic of the Second District Court of Appeal's decision and find full-time college students dependent and therefore entitled to parental support beyond the present age of majority. The remainder of this note will deal with the possible consequences of such a finding.

II. EQUAL PROTECTION CHALLENGE

As support for their refusal to order post-majority support to finance a child's education, Florida courts have noted that since offspring of married parents do not have a legal right to parental support while attending college, children of divorced parents should not have this right.⁴⁴ As Judge Boyer of the First District Court of Appeal phrased it, "[t]he fact that domestic whirlwinds cause a severance of the marriage does not enhance the rights of the children nor alter the obligations of the parents."⁴⁵

In *Kern v. Kern*, the court recognized the potential equal protection problem in noting that the state would have no reasonable grounds to treat the adult children of divorced parents any differently than the adult children of married parents.⁴⁶ This rationale, however, overlooks the fact that children whose parents are still married often continue to receive support beyond the age of majority and therefore have an ad-

42. *Id.* at 505.

43. *Id.* (footnote omitted) (emphasis supplied by the court).

44. Dwyer, 327 So. 2d at 75; White, 296 So. 2d at 623.

45. 296 So.2d at 623.

46. 360 So. 2d at 485.

vantage over children of divorced parents.⁴⁷

Under an equal protection challenge, the rational relationship test is applied to a statutory classification and, if shown to be rationally related to some legitimate government interest, the statute is upheld.⁴⁸ State statutes which specifically permit courts to order support for adult children who are pursuing an education have withstood equal protection attacks.

The Supreme Court of Iowa, in *In re Marriage of Urban*,⁴⁹ noted the state's recognition of the increasing importance of education, as evidenced by ever-increasing appropriations for educational purposes, and concluded that higher education was a matter of legitimate state interest.⁵⁰ Next, the court found that the state statute⁵¹ allowing a trial court to order a divorced parent to pay support for an adult child who is a full-time student bore a rational relationship to the state interest. In making this determination, the court took note of the differences in circumstances between married and divorced parents.⁵²

Similarly, in *Kujawinski v. Kujawinski*,⁵³ the Illinois Supreme Court upheld the constitutionality of a state statute which permits a court in a dissolution proceeding to order post-majority support to chil-

47. Washburn, *supra* note 39, at 329 n.55.

48. Childers v. Childers, 89 Wash. 2d 592, 575 P.2d 201 (1978). For a complete discussion of post-majority support and equal protection, see Veron, *supra* note 11, at 668-78.

49. 293 N.W.2d 198 (Iowa 1980).

50. *Id.* at 202.

51. IOWA CODE § 598.1(2) (1977) provides in part:

"Support" or "support payments" means any amount which the court may require either of the parties to pay under a temporary order or a final judgment or decree, and may include . . . child support . . . and any other term used to describe such obligations. Such obligations may include support for a child who is between the ages of eighteen and twenty-two years who is regularly attending an approved school . . . , or is, in good faith, a full-time student in a college, university, or area school; or has been accepted for admission to a college . . . ; or a child of any age who is dependent on the parties to the dissolution proceeding because of physical or mental disability.

52. 293 N.W.2d at 202. The court noted that married parents usually support their children through college years while divorced parents, when deprived of custody, sometimes react by refusing support. See also Harris v. Harris, 585 P.2d 435 (Utah 1978).

53. 71 Ill. 2d 563, 376 N.E.2d 1382 (1978).

dren for educational purposes, by finding that “the imposition of such an obligation upon divorced parents is reasonably related to a legitimate legislative purpose.”⁵⁴ The court noted the major economic and personal impact of divorce on the lives of those involved, including the fact that divorced parents are often unwilling to voluntarily provide support to the same extent as married parents.⁵⁵

In a frequently cited case on the issue of post-majority support, *Childers v. Childers*,⁵⁶ the Supreme Court of Washington held that requiring a divorced parent, under certain circumstances,⁵⁷ to support a child beyond the age of majority while a college education is pursued, is not violative of equal protection. Like Florida, Washington does not have a statute specifically empowering a court to order support for education of an adult child, but does allow a court to order support to a dependent child to whom a duty of support is owed.⁵⁸

In *Childers*, the court defined dependent in this context as “one who looks to another for support and maintenance, one who is in fact dependent, [or] one who relies on another for the reasonable necessities of life,”⁵⁹ and held that this definition encompassed full-time college students. In support of their finding of a duty of post-majority support for higher education, the court cited earlier cases which found a duty to educate *minor* children, and to provide a college education if the parent would suffer no significant hardship and the child showed aptitude. The duty was based in part on the court’s recognition of the state’s public policy that a college education should be had, as evidenced by the maintenance of several institutions of higher learning at public ex-

54. *Id.* at ___, 376 N.E.2d at 1389.

55. *Id.* at ___, 376 N.E.2d at 1389-90.

56. 89 Wash. 2d 592, 575 P.2d 201 (1978). *See also* 17 J. FAM. L. 604 (1979).

57. The court stated that the factors to be considered before support is ordered include the child’s age, needs, prospects, desires, aptitudes, abilities, and disabilities, and the parents’ level of education, standard of living, and current and future resources. A court should also consider the amount and type of support the child would have been afforded had his parents remained married. 89 Wash. 2d at ___, 575 P.2d at 205.

58. WASH. REV. CODE § 26.09.100 (1973) provides in part: “the court may order either or both parents owing a duty of support to any child of the marriage dependent upon either or both spouses to pay an amount reasonable or necessary for his support.”

59. 89 Wash. 2d at ___, 575 P.2d at 205.

pense.⁶⁰ Since the new statute used the term "dependent" rather than "minor," the court reasoned that the parental duty to educate is no longer limited by minority and that trial courts should now have discretion to determine when a duty of support is owed, based on the facts and circumstances of each case.⁶¹ The court then held that this interpretation of the statute does not violate equal protection since it is rationally related to the legitimate governmental interest of minimizing the disadvantages of children whose parents have divorced.

It appears that the establishment of a duty of post-majority support for education of offspring, whether done explicitly by enactment of a new statute or through judicial interpretation of an existing statute, can withstand an equal protection challenge. Courts have recognized the impact of divorce on children and the need for higher education in today's society in upholding decisions ordering a divorced parent to contribute toward the education of his adult child.

III. FACTORS WHEN ORDERING SUPPORT

No court has held that the duty to support an adult child while he is pursuing an education is absolute. The decision as to whether post-majority support should be ordered, in those states which recognize the allowance of such an order, is within the sound discretion of the trial court.⁶² Several factors must be considered, including the parent's ability to pay, the child's aptitude and willingness to further his education, and whether the child would have received the education if the marriage had not been dissolved.⁶³ In addition, courts have recognized the

60. *Id.* at —, 575 P.2d at 206. *See also* Marriage of Eusterman, 41 Or. App. 717, 598 P.2d 1274 (1979).

61. 89 Wash. 2d at —, 575 P.2d at 204, 207.

62. *See*, Nicholls v. Nicholls, 33 Conn. Supp. 210, 371 A.2d 400 (Super. Ct. 1977); Kujawinski v. Kujawinski, 71 Ill. 2d 563, 376 N.E.2d 1382 (1978); *In re Marriage of Vrbanc*, 293 N.W.2d 198 (Iowa 1980); Childers v. Childers, 89 Wash. 2d 592, 575 P.2d 201 (1978).

63. *See, e.g.*, Nicholls v. Nicholls, 33 Conn. Supp. 210, 371 A.2d 400 (Super. Ct. 1977); Khalaf v. Khalaf, 58 N.J. 63, 275 A.2d 132 (1971); Ross v. Ross, 167 N.J. Super. 441, 400 A.2d 1233 (1979) (father ordered to continue support payments until daughter completed law school); Commonwealth *ex rel.* Ulmer v. Sommerville, 200 Pa. Super. 640, 190 A.2d 182 (1963); *In re Marriage of Campbell*, 22 Wash. App. 560, 589 P.2d 1244 (1978). *See generally* Washburn, *supra* note 39, at 326-27.

increasing importance of higher education:

[W]e are living today in an age of keen competition, and if the children of today who are to be the citizens of tomorrow are to take their rightful place in a complex order of society and government, and discharge the duties of citizenship as well as meet with success the responsibilities devolving upon them in their relations with their fellow man, the church, the state and nation, it must be recognized that their parents owe them the duty to the extent of their financial capacity to provide for them the training and education which will be of such benefit to them in the discharge of the responsibilities of citizenship. It is a duty which the parent not only owes to his child, but to the state as well, since the stability of our government must depend upon a well-equipped, a well-trained, and a well-educated citizenship.⁶⁴

IV. CONCLUSION

The Supreme Court of Florida has not definitively ruled on the issue of post-majority support for education. The district courts of appeal are divided in their views as to whether a court should order a divorced parent, in the absence of a specific agreement, to provide support to an adult child for college expenses. Florida Statute § 743.07 empowers a court to order support to a dependent person beyond the age of eighteen years, but no court has based an order of support on the finding that a full-time college student is dependent.

Other states have recognized the special needs of children whose parents have divorced and the increasing importance of education, by imposing, under certain circumstances, a duty on divorced parents who can afford it, to support their children through college. The statutes establishing this duty have withstood equal protection challenges.

Florida courts have recognized that an adult college student may be dependent upon others for support. Perhaps they will soon acknowledge the growing trend toward providing post-majority support to children of divorced parents to enable them to obtain an education and

64. *Pass v. Pass*, 238 Miss. 449, 458, 118 So. 2d 769, 773 (1960). *See also Finn v. Finn*, 312 So. 2d 726 (Fla. 1975).

overcome the disadvantage they presently suffer in relation to their peers with married parents.

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